



House of Representatives

General Assembly

File No. 472

February Session, 2006

Substitute House Bill No. 5819

House of Representatives, April 10, 2006

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CRIME VICTIMS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) A pro se litigant who has
2 been convicted of a family violence crime, as defined in section 46b-38a
3 of the general statutes, or a violation of section 53-21, 53a-70, 53a-70a,
4 53a-70b, 53a-71, 53a-72a, 53a-72b, 53a-73a, 53a-181c, 53a-181d or 53a-
5 181e of the general statutes shall not issue a subpoena summoning a
6 victim of the crime for which such litigant was convicted to appear and
7 testify at a court hearing or deposition in any civil matter including a
8 habeas corpus proceeding, unless a court authorizes the issuance of
9 such subpoena in accordance with subsection (b) of this section.

10 (b) Whenever such pro se litigant intends to issue a subpoena to any
11 such victim, such litigant shall provide the clerk of the court with
12 notice of such intention. Upon receipt of such notice, the clerk of the
13 court shall schedule a hearing and provide notice to the pro se litigant
14 of the date, time and place of such hearing. At such hearing, the pro se
15 litigant shall make an offer of proof as to the content of the testimony

16 expected to be given by the victim. If the court finds that the testimony
17 expected to be given by the victim is relevant and necessary to the civil
18 matter, the court shall authorize the pro se litigant to issue such
19 subpoena to such victim. The scope of such litigant's examination of
20 the victim shall be limited in accordance with the court's findings on
21 the offer of proof.

22 Sec. 2. Subsection (a) of section 54-211 of the 2006 supplement to the
23 general statutes is repealed and the following is substituted in lieu
24 thereof (*Effective October 1, 2006*):

25 (a) (1) No order for the payment of compensation shall be made
26 under section 54-210 unless the application has been made within two
27 years after the date of the personal injury or death, and the personal
28 injury or death was the result of an incident or offense listed in section
29 54-209 which has been reported to the police within five days of its
30 occurrence or, if the incident or offense could not reasonably have been
31 reported within such period, within five days of the time when a
32 report could reasonably have been made or, in the case of a victim of
33 sexual assault, within five days of the time when such victim has been
34 examined at a health care facility for the collection of sexual assault
35 evidence. (2) Notwithstanding the provisions of subdivision (1) of this
36 subsection, any person who, before, on or after October 1, 2005, fails to
37 make application for compensation within two years after the date of
38 the personal injury or death as a result of physical, emotional or
39 psychological injuries caused by such personal injury or death may
40 apply for a waiver of such time limitation. The Office of Victim
41 Services, upon a finding of such physical, emotional or psychological
42 injury, may grant such waiver. (3) Notwithstanding the provisions of
43 subdivision (1) of this subsection, any minor who, before, on or after
44 October 1, 2005, fails to make application for compensation within two
45 years after the date of the personal injury or death through no fault of
46 the minor, may apply for a waiver of such time limitation. The Office
47 of Victim Services, upon a finding that such minor is not at fault, may
48 grant such waiver. (4) Notwithstanding the provisions of subdivision
49 (1) of this subsection, a person who is a dependent of a victim may

50 make application for payment of compensation not later than two
51 years from the date that such person discovers or in the exercise of
52 reasonable care should have discovered that the person upon whom
53 the applicant was dependent was a victim or ninety days after May 26,
54 2000, whichever is later. Such person shall file with such application a
55 statement signed under penalty of false statement setting forth the date
56 when such person discovered that the person upon whom the
57 applicant was dependent was a victim and the circumstances that
58 prevented such person discovering that the person upon whom the
59 applicant was dependent was a victim until more than two years after
60 the date of the incident or offense. There shall be a rebuttable
61 presumption that a person who files such a statement and is otherwise
62 eligible for compensation pursuant to this chapter is entitled to
63 compensation. (5) Any waiver denied by the Office of Victim Services
64 under this subsection may be reviewed by a victim compensation
65 commissioner, provided such request for review is made by the
66 applicant within thirty days from the mailing of the notice of denial by
67 the Office of Victim Services. If a victim compensation commissioner
68 grants such waiver, the commissioner shall refer the application for
69 compensation to the Office of Victim Services for a determination
70 pursuant to section 54-205. (6) Notwithstanding the provisions of
71 subdivision (1), (2) or (3) of this subsection, the Office of Victim
72 Services may, for good cause shown and upon a finding of compelling
73 equitable circumstances, waive the time limitations of subdivision (1)
74 of this subsection.

75 Sec. 3. Subsection (d) of section 54-211 of the 2006 supplement to the
76 general statutes is repealed and the following is substituted in lieu
77 thereof (*Effective October 1, 2006*):

78 (d) (1) No compensation shall be awarded for the first hundred
79 dollars of injury sustained and no such compensation shall be in an
80 amount in excess of fifteen thousand dollars except that such
81 compensation to or for the benefit of the dependents of a homicide
82 victim shall be in an amount not to exceed twenty-five thousand
83 dollars. The claims of the dependents of a deceased victim, as provided

84 in section 54-208, shall be considered derivative of the claim of such
 85 victim and the total compensation paid for all claims arising from the
 86 death of such victim shall not exceed a maximum of twenty-five
 87 thousand dollars.

88 (2) Notwithstanding the provisions of subdivision (1) of this
 89 subsection, the Office of Victim Services or a victim compensation
 90 commissioner may, for good cause shown and upon a finding of
 91 compelling equitable circumstances, award compensation in an
 92 amount in excess of the maximum amounts set forth in said
 93 subdivision.

94 Sec. 4. (*Effective from passage*) The Chief State's Attorney, in
 95 consultation with the Chief Court Administrator, shall develop a plan
 96 for the establishment and implementation of a state-wide automated
 97 victim information and notification system to provide automatic notice
 98 of relevant offender information and status reports to registered crime
 99 victims. Not later than January 1, 2007, the Chief State's Attorney shall
 100 submit such plan, including any recommended legislation necessary to
 101 implement such plan, to the joint standing committee of the General
 102 Assembly having cognizance of matters relating to the judiciary, in
 103 accordance with section 11-4a of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>October 1, 2006</i>	54-211(a)
Sec. 3	<i>October 1, 2006</i>	54-211(d)
Sec. 4	<i>from passage</i>	New section

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Judicial Dept.	CICF - Cost	Minimal	Minimal
Judicial Dept.; Criminal Justice, Div.	GF - Cost	Minimal	None

Note: CICF=Criminal Injuries Compensation Fund; GF=General Fund

Municipal Impact: None

Explanation

The bill prohibits any pro se litigant who has been convicted of certain crimes from issuing a subpoena summoning the victim of the crime for which the litigant was convicted to appear and testify at a court hearing or deposition in any civil matter unless a court authorizes the issuance of such subpoena. Under the bill, it would be the responsibility of the defendant or the defendant's attorney to bring this issue to light and consequently there is no fiscal impact or workload increase to the Judicial Department under this provision.

The bill also provides that the Office of Victim Services may, under certain conditions, lift the statutory time limit for victim compensation or award compensation in amounts that are in excess of the statutory maximum. It is anticipated that these provisions would be used infrequently and, as a result, any cost would be minimal (ie., less than \$50,000) on an annual basis.

Lastly, the bill requires the Chief State's Attorney, in consultation with the Chief Court Administrator, to develop a plan for the establishment and implementation of a statewide automated victim information and notification system to provide automatic notice of relevant offender information and status reports to registered crime victims. Development of this plan could be accomplished with a minimal cost.

The Out Years**State Impact:**

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$	FY 11 \$
Judicial Dept.	CICF - Cost	Minimal	Minimal	Minimal
Judicial Dept.; Criminal Justice, Div.	GF - Cost	None	None	None

Note: CICF=Criminal Injuries Compensation Fund; GF=General Fund

Municipal Impact: None

OLR Bill Analysis**sHB 5819*****AN ACT CONCERNING CRIME VICTIMS.*****SUMMARY:**

This bill requires certain convicted criminals to get a court's permission to issue a subpoena summoning their crime victim to appear and testify at a court hearing or deposition in any civil matter, including a habeas corpus proceeding.

It gives the Office of Victim Services (OVS) the authority to (1) waive the time limit for crime victims to apply for crime victim compensation and (2) award compensation amounts in excess of the statutory maximum. It permits victims of sexual assault to apply for crime victim compensation if they report the crime to the police within five days after they visit a health care facility where they are examined and sexual assault evidence is collected.

Lastly, the bill requires the chief state's attorney, in consultation with the chief court administrator, to develop a plan for establishing and implementing a statewide automated victim information and notification system.

EFFECTIVE DATE: Upon passage, except for the provisions on OVS, which are effective on October 1, 2006.

PERMISSION TO ISSUE SUBPOENAS

The bill's requirement for a court's permission to issue a subpoena applies to a person who is not represented by legal counsel (pro se litigant) and who has been convicted of (1) a family violence crime; (2) risk of injury to minors; (3) first-, second-, third-, or fourth-degree sexual assault; (4) aggravated first-degree sexual assault; (5) second-

degree assault with a firearm; (6) sexual assault in a spousal or cohabitating relationship; or (7) first-, second-, or third-degree stalking.

The bill requires the pro se litigant to provide the clerk of court with a notice of his intention to issue the subpoena. A clerk who receives notice must schedule a hearing and give the pro se litigant notice of its date, time, and place. At such hearing, the pro se litigant must disclose the testimony he expects the victim to give. The court may authorize the subpoena if it finds that the expected testimony is relevant and necessary to the civil matter. The litigant's subsequent examination of the victim must be consistent with the court's findings.

CRIME VICTIM COMPENSATION

The bill permits the OVS to waive the time limitation on crime victim compensation applications. It appears that this bill actually imposes criteria for exercising the authority since OVS can, by law, grant waivers to anyone who misses the statutory deadline and who (1) sustained physical, emotional, or psychological injuries as a result of the personal injury or death or (2) were minors during the period that the application should have been made and through no fault of their own missed the deadline.

By law, crime victims may generally be considered for a grant if they apply within two years after the date of personal injury or death and report the crime to the police within five days after it occurs.

The bill also permits OVS or a victim compensation commissioner to award compensation in an amount in excess of the statutory maximum for good cause shown and upon a finding of compelling equitable circumstances. By law, the maximum awards are \$15,000 for personal injuries and \$25,000 for death.

VICTIM INFORMATION AND NOTIFICATION SYSTEM

The bill requires the chief state's attorney plan for the system include that it will to provide registered crime victims with automatic notice of relevant offender information and status reports. By January 1, 2007, the chief state's attorney must submit the plan, including any

recommendations for implementing legislation, to the Judiciary Committee.

BACKGROUND

Crime Victim Compensation

Under current law, OVS or a victim compensation commissioner may compensate crime victims or their immediate families when the victim is deceased, incapacitated, or a minor child, for reasonable and necessary expenses, lost wages, pecuniary losses, and other losses resulting from injury or death. Eligible victims must have been injured or killed during (1) their attempts to prevent crime, aid police, or apprehend suspects; (2) attempts to commit, or actual commissions of, crime by another person; (3) international terrorism; or (4) another person's violation of enumerated motor vehicle offenses.

Related Bill

HB 5543, favorably reported by the Judiciary Committee, reduces, from \$100 to \$25, the amount of loss that a victim sustains that is deductible from crime victim compensation claims.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 38 Nay 0 (03/27/2006)